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Please reply to New York

March 17, 2025

VIA ECOURTS FILING

Hon. Paul A. Engelmayer, U.S.D.J.
United States District Court for the
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

VIA ECOURTS FILING

Hon. Katharine H. Parker, U.S.M.J.
United States District Court for the
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

RE: **COLONY INSURANCE VS. OZ SOLUTIONS, ET AL.**

Our File No. : 94403a SME
Docket No. : 1:24-CV-01935

Dear Judge Engelmayer and Judge Parker:

This office represents Plaintiff Colony Insurance Company. This matter is scheduled for a Settlement Conference with Judge Parker on March 25. For the reasons set forth below and with consent of all counsel, it is respectfully requested that the March 25th Settlement Conference be adjourned and the Court enter the attached Amended Civil Case Management Plan and Scheduling Order.

This action is brought by Colony seeking rescission of the policies issued to Oz Solutions. There is an ongoing underlying construction defect case captioned, captioned 470 4th Avenue Fee Owner LLC v. Adam America, LLC, Danya Cebus Construction, LLC and 470 4th Avenue Investors, LLC., et al., Index No. 656506/2018 (the "Underlying Action").

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In the Underlying Action, Danya Cebus (an interested party in this matter) is a defendant and third party plaintiff, having named various subcontractors, including Oz Solutions, as third party defendants.

As previously advised, there was a settlement reached in principle during a December 2024 mediation in the Underlying Action between the plaintiff and the defendants, including Danya Cebus. A follow-up global mediation occurred on January 15, 2025 seeking to resolve Danya Cebus's third party claims in the Underlying Case (including claims against Oz Solutions) and a related declaratory judgment action filed by defendant Sentinel Insurance Company seeking recovery of defense costs and fees incurred for defending certain parties in Underlying Action, including Danya Cebus, based on alleged additional insured status for Danya Cebus under various liability policies issued to the third party defendants in the Underlying Action ("Additional Insured Claims"). (Sentinel has asserted crossclaims against Colony in this matter concerning its Additional Insured Claims against Colony for the policy(ies) of insurance issued to Oz Solutions.)

However, due to issues concerning allocation of settlement funds recovered from the third party defendants in the Underlying Action between the Danya Cebus's tower of insurance ("Danya Cebus Tower") and the Additional Insured Claims, the mediation was concluded early so that those issues could be resolved in order to facilitate further settlements. Once those issues were resolved, it was the hope and understanding that the focus could return to resolving the third party claims against Oz Solutions and the other third party defendants in the Underlying Action, as well as the Additional Insured Claims.

Unfortunately, the Danya Cebus Tower and Sentinel have not reached a global allocation agreement. However, given the firm trial date of April 7, 2025 in the Underlying Action, both Danya Cebus's Tower and Sentinel have recently turned their focus to try and resolve their respective claims with the third party defendants and its insurers in the Underlying Action, including Oz Solutions and Colony.

With consent of all parties, given the various moving parts and various parties/entities involved in the settlement discussions (including some not in this matter), it is respectfully requested that the Court adjourn the March 25 settlement conference to allow the settlement discussions to continue in hopes that a resolution of claims involving Oz Solutions and Colony could be reached before the April 7th trial date in the Underlying Action.

In addition, the parties are submitting an Amended Civil Case Management Plan and Scheduling Order that pushes out the current dates by approximately 45 days to see if settlement can be reached before the April 7th

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trial date in the Underlying Action. If a settlement is not reached before April 7th, then the parties will finish any remaining discovery and proceed with motion practice and/or trial in this matter.

This is the third request for an adjournment of the settlement conference in this matter. [See ECF Nos. 78 and 87].

Accordingly, the parties respectfully request the Court adjourn the March 25, 2025 Settlement Conference and enter the attached Amended Civil Case Management Plan and Scheduling Order. The parties would be pleased to address any questions the Court may have concerning these requests.

Respectfully submitted,

METHFESSEL & WERBEL, ESQS.



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Enclosure: Amended Civil Case Management Plan and Scheduling Order

cc: VIA ECF

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APPLICATION GRANTED: The settlement conference in this matter scheduled for Tuesday, March 25, 2025 at 10:00 a.m. in Courtroom 17-D, United States Courthouse, 500 Pearl Street, New York, New York is hereby rescheduled Wednesday, May 21, 2025 at 10:00 a.m. to Parties must attend in-person with their counsel. Corporate parties must send the person with decision making authority to settle the matter to the conference. The parties are instructed to complete the Settlement Conference Summary Report and prepare pre-conference submissions in accordance with Judge Parker's Individual Rules of Practice. Pre-conference submissions must be received by the Court no later than May 14, 2025 by 5:00 p.m.

APPLICATION GRANTED



Hon. Katharine H. Parker, U.S.M.J.

03/18/2025